



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Agenda CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Annette Paige Lewis, Ward 1*  
*Griffin "Grif" L. Chalfant, Jr., Ward 2*  
*Johnny Sinclair, Ward 3*  
*G. A. (Andy) Morris, Ward 4*  
*Rev. Anthony C. Coleman, Ward 5*  
*James W. King, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, December 11, 2013

7:00 PM

Council Chamber

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### CALL TO ORDER:

### INVOCATION:

*Council Member Andy Morris, Ward 4*

### PLEDGE OF ALLEGIANCE:

### PRESENTATIONS:

#### **20131441      2013 Citizens' Government Academy Graduates**

Graduates of the 2013 Citizens' Government Academy are Robert Barnes, Emily Collette, David Dudley, Janet Gilliland, Wes House, David Huggins, Joe Kinstle, Patricia Koutouzis, Richard Maher, Jill Mayer, Steve Michael, Ryan Moore, Nancy Petrone, Sonya Pullard, Ashley Shurtz, Alice Summerour, Lindsey Thompson, Katherine Thurmond, Brian Torres, Jeanette Van der Linden, Carol Warner, Ryan Warner, Bill White, and Victoria Woodall.

#### **20131434      Vision 20/20 Report**

Report by the Vision 20/20 Committee.

### PROCLAMATIONS:

#### **20130989      Distinguished Service Award**

Presentation of a Distinguished Service Award honoring Council Member Johnny Sinclair. Council Member Sinclair served the citizens of Marietta for 12 years with honor and distinction from 1998-2005 and 2010-2013.

**20130990 Distinguished Service Award**

Presentation of a Distinguished Service Award honoring Council Member Jim King. Council Member King served the citizens of Marietta for 12 years with honor and distinction from 2002-2013.

**20131459 Distinguished Service Award**

Presentation of a Distinguished Service Award honoring Council Member Annette Paige Lewis. Council Member Lewis served the citizens of Marietta for 8 years with honor and distinction from 2006-2013.

**20131414 Proclamation - Marietta Center for Advanced Academics (MCAA)**

Mayor Tumlin presents a Proclamation to Jennifer Hernandez, Principal of MCAA. MCAA is a unique elementary magnet school in the Marietta City School District. This Proclamation honors MCAA for their numerous successes including being named a 2010 and 2012 Georgia School of Excellence, the 2011 Georgia Student Achievement Platinum Award Winner, and the 2013 US Department of Education national Blue Ribbon School, having the highest performing school in the state of Georgia on the College and Career Readiness Performance Index in 2012.

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:****CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

**MINUTES:****\* 20131386 Regular Meeting - November 13, 2013**

Review and approval of the November 13, 2013 regular meeting minutes.

**\* 20131387 Special Meeting - November 19, 2013**

Review and approval of the November 19, 2013 special meeting minutes.

\*      **20131388      Special Meeting - November 21, 2013**

Review and approval of the November 21, 2013 special meeting minutes.

**MAYOR'S APPOINTMENTS:**

**CITY COUNCIL APPOINTMENTS:**

\*      **20130205      Planning Commission Appointment**

Appointment of Brenda McCrae to the Planning Commission (Ward 5), for a three year term beginning immediately upon appointment and expiring December 9, 2016.

\*      **20131147      Civil Service Board Appointment**

Appointment of James Tarvin to the Civil Service Board (Post 3 Council Appointment) for a three (3) year term beginning January 1, 2014 and expiring December 31, 2016.

**ORDINANCES:**

\*      **20131256      Z2013-28 Richmond Tree Experts, Inc. (Patrick Lombardo) 1356 Cobb Industrial Drive**

Z2013-28 [SPECIAL LAND USE PERMIT] RICHMOND TREE EXPERTS, INC. (PATRICK LOMBARDO) request a Special Land Use Permit for a mulching and chipping facility on property located in Land Lot 09260, District 16, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia and being known as 1356 Cobb Industrial Drive currently zoned HI (Heavy Industrial). Ward 5.

*The Planning Commission recommends for approval w/stipulations    Vote: 5 – 0 – 0*

*Motion:      Mr. Vanderslice made a motion, seconded by Mr. Waters, to recommend to city council the approval of the Special Land Use Permit.*

*Stipulations:*

- 1.    Hours of operation for the grinder will be 8:00 a.m. to 5:00 p.m. on weekdays. The grinder will not run on weekends unless given approval by the City Manager for a storm emergency.*
- 2.    All noise ordinances shall be strictly adhered to.*

\*      **20131258      Z2013-29 Christina & Emory Cody Lowry, Jr. 1638 Burnt Hickory Road**

Z2013-29 [REZONING] CHRISTINA & EMORY CODY LOWRY, JR. request rezoning for property located in Land Lot 02880, District 20, Parcel 0590, 2nd Section, Marietta, Cobb County, Georgia and being known as 1638 Burnt Hickory Road from R-20 (20,000 sq. ft. per lot [Cobb County]) to R-2 (Single Family Residential 2 units/acre [City]). Ward 4.

*The Planning Commission recommends approval      Vote: 5 – 0 – 0*

*Motion:      Mr. Waters made a motion, seconded by Mr. Vanderslice, to approve this rezoning, as submitted.*

*Stipulations: N/A*

*PUBLIC HEARING (all parties are sworn in)*

\*      **20131259      A2013-06 Christina and Emory Cody Lowry, Jr., 1638 Burnt Hickory Road**

A2013-06 [ANNEXATION] CHRISTINA AND EMORY CODY LOWRY, JR. request annexation for property located in 02880, District 20, Parcel 0590, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1638 Burnt Hickory Road, consisting of a total of .67 acres; along with all required right-of-way. Ward 4.

*The Planning Commission recommends approval      Vote: 5 – 0 – 0*

*Motion: Mr. Diffley made a motion, seconded by Mr. Waters, to recommend to city council that this annexation request be accepted, as submitted.*

*Stipulations: N/A*

*PUBLIC HEARING (all parties are sworn in)*

\*      **20131260      CA2013-14 Christina and Emory Code Lowry, Jr. 1638 Burnt Hickory Road**

CA2013-14 [CODE AMENDMENT] In conjunction with the requested annexation of property in Land Lot 02880, District 20, Parcel 0590, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1638 Burnt Hickory Road, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 4.

*The Planning Commission recommends approval      Vote: 5 – 0 – 0*

*Motion:      Mr. Vanderslice made a motion, seconded by Mr. Waters, to recommend to city council that the future land use request be approved, as presented.*

*Stipulations: N/A*

*PUBLIC HEARING (all parties are sworn in)*

**20131296      Z2013-31 Alberto Chamorro 107-109 Gramling Street**

Z2013-31 [REZONING] ALBERTO CHAMORRO request rezoning for property located in Land Lot 02180, District 17, Parcel 0260, 2nd Section, Marietta, Cobb County, Georgia and being known as 107-109 Gramling Street from R-4 (Single Family Residential 4 units/acre) to R-4 (Single Family Residential 4 units/acre) with an additional use as a duplex. Ward 3.

*The Planning Commission recommends approval      Vote: 5 – 0 – 0*

*Motion: Mr. Waters made a motion, seconded by Mrs. Richardson, to recommend to city council that this application be approved as submitted.*

*Stipulations: N/A*

*PUBLIC HEARING (all parties are sworn in)*

**20131297      Z2013-30 Noel Palmer 120-122 Gramling Street**

Z2013-30 [REZONING] NOEL PALMER request rezoning for property located in Land Lot 02180, District 17, Parcel 0680, 2nd Section, Marietta, Cobb County, Georgia and being known as 120-122 Gramling Street from R-4 (Single Family Residential 4 units/acre) to R-4 (Single Family Residential 4 units/acre) with an additional use as a duplex. Ward 3.

*The Planning Commission recommends approval      Vote: 5 – 0 – 0*

*Motion: Mr. Diffley made a motion, seconded by Mrs. Richardson, to recommend to city council that this request be approved, as submitted.*

*Stipulations: N/A*

*PUBLIC HEARING (all parties are sworn in)*

**\*      20131061      Sign Ordinance Revision**

Approval of an Ordinance amending the Comprehensive Development Code of the City of Marietta, Division 714, Signs.

*The Planning Commission recommends approval      Vote: 5 – 0 – 0*

*Motion: Mr. Vanderslice made a motion, seconded by Mr. Waters, to recommend to city council that this code amendment be approved, as submitted.*

*Stipulations: N/A*

*PUBLIC HEARING (all parties are sworn in)*

*Council Member Goldstein opposed*

**RESOLUTIONS:**

**CITY ATTORNEY'S REPORT:****\*      20131442      Denial of Claim**

Denial of the claim of Trish and Mark Evans

**\*      20131456      Denial of Claim**

Denial of the claim of Maria Michelle Baylor, Khalia Michelle Baylor, Khaira Jonelle Baylor, Stefanie Acacia Gilbert and Steve Andre Gilbert, II.

**CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson****\*      20131358      Joint Land Use Study (JLUS) - Dobbins Air Reserve Base**

Motion to authorize participation in the Joint Land Use Study (JLUS) - Dobbins Air Reserve Base, with no funding required.

**20131366      Approval of a contract with Real Estate Consultant**

Motion approving the attached contract with Jones Lang LaSalle serving as the Real Estate Consultant for the Franklin-Gateway Redevelopment Area.

**2. Finance/Investment: Annette Lewis, Chairperson****\*      20131383      Tourism Development Funding**

Approval of an Ordinance amending the Fiscal Year 2014 Budget to appropriate \$77,167 from the tourism development contingency to cover the expenses of the special events relating to the 150th anniversary of the Civil War.

**3. Judicial/Legislative: Philip M. Goldstein, Chairperson****\*      20131334      Conflict of Interest Affidavit**

Motion to approve the use of a Conflict of Interest Affidavit related to the Franklin Gateway Area Bond issuance to be executed individually not as a group at their discretion.

*Council member Goldstein abstaining*

\*      **20131355      18 Whitlock Lease for Gone With the Wind Museum**

Motion to approve extending the lease on 18 Whitlock Avenue for the Gone With the Wind Museum for one year.

\*      **20131401      Sign Ordinance Amendment**

Motion to authorize advertisement of amendments to the Comprehensive Development Code of the City of Marietta regarding Division 714.03, Signs to remove language related to flags.

\*      **20131402      Flag Ordinance**

Motion to authorize advertisement of the Comprehensive Development Code of the City of Marietta, Division 712.12, Flags.

**4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**

\*      **20131349      Atherton Square Park Funding**

Motion approving funding from the Parks Bond not to exceed \$150,000 for vertical structures and historic interpretive items to complete the Atherton Square Park project from Category C, Development of Parks, Facilities and Trails and Greenspace (new and existing).

*Council member Goldstein previously disclosed that he and/or his family members own, and/or an entity owned by him or family members own property adjacent to McNeel Alley next to Atherton Square.*

\*      **20131362      The Betty Lou Hunter Gazebo at Brown Park**

Approval of a Resolution honoring Betty Lou Hunter for her leadership in preserving the historic Square Gazebo from the North Side of Glover Park which was later placed at Brown Park, and her dedication and service in the preservation of City of Marietta Heritage at Brown Park, a resolution is passed naming the gazebo the “Betty Lou Hunter Gazebo at Brown Park” and waiving the three year requirement for a distinguished individual to be deceased prior to naming a facility after said individual.

\*      **20131373      Street Closures Request for Marietta Square Farmer's Market**

Motion approving temporary short term street closures for the 2014 calendar year Farmer's Market sponsored by the Downtown Marietta Development Authority (DMDA) as follows:

- Saturday closure of Mill St:  
January 11, 2013 to March 29, 2014                      from 7 a.m. to 2 p.m.
- Saturday closure of North Park Square:  
April 5, 2014 to November 22, 2014                      from 7 a.m. to 2 p.m.
- Saturday closure of Mill St:  
November 29, 2014 to December 20, 2014                      from 7 a.m. to 2 p.m.
- Sunday closure of Mill St:  
April 6, 2014 to November 23, 2014                      from 12 noon to 5 p.m.

\*      **20131374      Street Closures Request for Marietta Square Artist's Market**

Motion approving temporary short term street closures for the 2014 calendar year Marietta Square Artist's Market sponsored by the Downtown Marietta Development Authority (DMDA) as follows:

Mill Street from the railroad tracks to Church St./West Park Square on the second and fourth Saturdays of the month from April 5, 2014 through November 22, 2014 during the hours of 7:00 a.m. to 3 p.m. for the purpose of conducting an Artist's Market, with parking spaces closed at 5:30 a.m.

**5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson**

\*      **20131354      FY 2014 City/BLW Allocation Chart**

Approval of an Ordinance amending the FY2014 City/BLW position allocation chart and pay and classification plan in order to reclassify the position of BLW Rate Analyst to Principal Utility Analyst.

**6. Public Safety Committee: Anthony Coleman, Chairperson**

**7. Public Works Committee: Jim King, Chairperson**

\*      **20131188      Rottenwood Creek Project Framework Agreement**

Motion to approve Project Framework Agreements with GDOT for the conceptual development and engineering of the Rottenwood Creek Trail, Phase 1.



\*      **20131287      Proposed Radar Speed Signs at Charles Avenue**

Motion to install two radar speed signs on Charles Avenue.

\*      **20131343      Whitlock Avenue Improvements**

Motion to issue RFQ for design and engineering services for the Whitlock Avenue improvements to be done as part of the Redevelopment Bond.

**OTHER BUSINESS:**

**20131461      The Farm at the Retreat Preliminary Plat**

Motion to approve the Preliminary Plat for the Farm at the Retreat located in Land Lot 02880, District 20, 2nd Section, Marietta, Cobb County, Georgia. The purpose of this revision is to:

The purpose of a preliminary plat, in accordance with Section 728.04 of the Marietta City Code, is to give conditional approval of the subdivision layout, but does not constitute approval of the final plat. The final plat for this development will be submitted at a later date for approval by the Mayor and Council upon completion of all required improvements, including but not limited to, roadways, water distribution lines, sanitary sewer lines, storm drainage facilities, and other required improvements, as shown on the attached plans.

\*      **20131403      Budget Amendment - Bond Proceeds**

Motion authorizing a budget amendment to appropriate \$60 million in Bond Proceeds.

\*      **20131440      2005 SPLOST Project Budget Reallocation**

Motion authorizing the reallocation of 2005 SPLOST Project Funds for project completion.

\*      **20131439      Monday, January 6, 2013 Agenda Work Session**

Motion approving the change of the time for the Monday, January 6, 2014 5:15 pm city council Agenda Work Session to an earlier time at 4:15 pm, with a Special Called meeting at 7 pm. The Wednesday, January 8, 2014 city council Agenda Review Session is moved to 5:30 pm.

\*      **20131444      Paperless Agendas**

Motion to direct staff to prepare for a “paperless” program for Council, BLW and Public to be presented in early 2014 to Council and implementation soon thereafter” Analysis to include costs and costs savings, equipment needed, and generally all ancillary matters as to going paperless.

**20131381      Marietta Redevelopment Corporation (MRC) Loan**

Motion to approve loan from the City of Marietta to the Marietta Redevelopment Corporation consistent with the Forbearance Agreement and consistent with the terms detailed in the Memorandum of Understanding between the Bank of North Georgia, City of Marietta and Marietta Redevelopment Corporation. Further, to authorize the Mayor and City Clerk to sign attached Memorandum of Understanding with the incorporated terms detailed in the commitment letter. The document shall provide that the city of Marietta has no direct liability to Bank of North Georgia.

*Philip Goldstein owns stock jointly in Synovis. Philip Goldstein placed an order on 11-20-2013 to sell the stock he individually owned on 11-21-2013. Said company is the parent of Bank of North Ga. If the stock in Synovis owned jointly was sold, the amount attributable to Philip Goldstein from his ownership portion would continue to be under the State reporting requirement based on the stock price when checked on 11-21-2013. As I have reduced the value of what is owned, I am providing this for disclosure purposes even though it is not required and I am not prohibited from participating in the mater.*

*Haynie, Litchfield, Crane & White, PC, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.*

*Mayor Tumlin is a Board member of the MRC and is a member of the governing body that appoints the Board Members of the MRC. The Law Firm, Smith, Tumlin, McCurley & Patrick, PC, of which Tumlin is a non-owner associate, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.*

**20131380      Forbearance Agreement**

Motion to approve Forbearance Agreement among the Marietta Redevelopment Corporation, the Bank of North Georgia and the City of Marietta including the authorization for the Mayor and City Clerk to execute same. The document shall provide that the City of Marietta has no direct liability to Bank of North Georgia.

*Philip Goldstein owns stock jointly in Synovis. Philip Goldstein placed an order on 11-20-2013 to sell the stock he individually owned on 11-21-2013. Said company is the parent of Bank of North Ga. If the stock in Synovis owned jointly was sold, the amount attributable to Philip Goldstein from his ownership portion would continue to be under the State reporting requirement based on the stock price when checked on 11-21-2013. As I has reduced the value of what is owned, I am providing this for disclosure purposes even though it is not required and I am not prohibited from participating in the mater.*

*Haynie, Litchfield, Crane & White, PC, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.*

*Mayor Tumlin is a Board member of the MRC and is a member of the governing body that appoints the Board Members of the MRC. The Law Firm, Smith, Tumlin, McCurley & Patrick, PC, of which Tumlin is a non-owner associate, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.*

**20131460      Forbearance Agreement**

Motion or motions related to any other matter or matters regarding the Forbearance Agreement among the City of Marietta, the Bank of North Georgia and the Marietta Redevelopment Corporation and/or related to the loan from the City of Marietta to the Marietta Redevelopment Corporation. This was added at the request of City Attorney, Doug Haynie.

*Philip Goldstein owns stock jointly in Synovis. Philip Goldstein placed an order on 11-20-2013 to sell the stock he individually owned on 11-21-2013. Said company is the parent of Bank of North Ga. If the stock in Synovis owned jointly was sold, the amount attributable to Philip Goldstein from his ownership portion would continue to be under the State reporting requirement based on the stock price when checked on 11-21-2013. As I has reduced the value of what is owned, I am providing this for disclosure purposes even though it is not required and I am not prohibited from participating in the mater.*

*Haynie, Litchfield, Crane & White, PC, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.*

*Mayor Tumlin is a Board member of the MRC and is a member of the governing body that appoints the Board Members of the MRC. The Law Firm, Smith, Tumlin, McCurley & Patrick, PC, of which Tumlin is a non-owner associate, from time to time, but not in this matter, has performed real estate closings for or with client for Bank of North Georgia.*

**\*      20131463      44 N. Fairground Street**

Motion authorizing acquisition of the property at 44 N. Fairground Street from B&B Drywalls Inc. for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$7,000.00.

**\*      20131464      74 Black Street**

Motion authorizing acquisition of the property at 74 Black Street from Bailey Realty Associates, Inc. for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$12,890.00 and is inclusive of site improvements.

\*      **20131465      547 Roswell Street**

Motion authorizing acquisition of the property at 547 Roswell Street from the Masonic Temple for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$1,750.00 and the included stipulations.

Stipulations

1. No silt fencing will be put in the parking lot as it may obstruct customers when loading.
2. No construction equipment will be left on the easement when not in use.
3. Contractor will coordinate with tenant to make sure construction vehicles or equipment will not obstruct their customers when loading materials in their vehicles. Tenant wants contractor to be aware that some customer vehicles may be large and may have difficulty when backing out of parking spaces and want to be sure that the contractor will help to accommodate them and not obstruct their driveway or parking lot in any way.

\*      **20131466      659 Franklin Road**

Motion to authorize the acquisition of property located at 659 Franklin Road owned by Blackford/Carlson Investments on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

\*      **20131389      BLW Actions of the December 9, 2013**

Review and approval of the December 9, 2013 actions and minutes of the Marietta Board of Lights and Water.

*Council member Goldstein voting against BLW agenda item 20131445, Deposits into the Municipal Competitive Trust 2014.*

*Council member Coleman voting against BLW agenda item 20131445, Deposits into the Municipal Competitive Trust 2014, 20131404, Marietta Board of Lights & Water Policy & Procedure No. 3.20, Water Service Rates and 20131406, Marietta Board of Lights & Water Policy & Procedure No. 3.24, Water Monthly Minimums.*

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**